



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert E. Corbin

April 24, 1987

Mr. Douglas S. Stanley
Hunt, Stanley, Hossler & Rourke, Ltd.
330 West 24th Street
Post Office Box 2919
Yuma, Arizona 85364

Re: I87-057 (R87-040)

Dear Mr. Stanley:

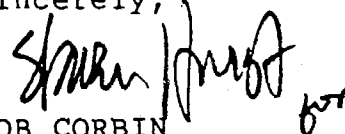
Pursuant to A.R.S. § 15-253 (B) this office has reviewed the opinion expressed in your February 10, 1987 letter to Dr. Thomas McCraley, Superintendent of Yuma School District No. 1, regarding reimbursement for district business expenses. We concur with your conclusion that the governing board may reimburse an administrator to the extent of actual costs for "business expenses" of the district, even if those business expenses are incurred during out-of-town travel and exceed the state limit on travel expenses, so long as the expenses are not related to the purposes of the approved travel and are not a subterfuge to circumvent state limits on travel expenses.

We do not view reimbursement for "business expenses" to be a fringe benefit within the scope of A.R.S. § 15-502(A). Fringe benefits, as contemplated by Chapter 5 of Title 15, Arizona Revised Statutes, are supplemental to take home pay and include such items as dental, medical, disability and life insurance; sick and annual leave; housing and tuition allowances. See Ariz. Atty. Gen. Op. 180-138. They may also include early retirement programs. Ariz. Atty. Gen. Op. 181-79 and 184-097. We note that monies to cover the reimbursement of these expenses are paid by the Yuma District from a "miscellaneous other expenditure" account of the district. Although this is not determinative of the nature of the expenditure, it does reflect the administration's and governing board's determination of the purpose of these expenditures.

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We caution districts regarding the state constitutional prohibition against gifts^{1/} and emphasize that a governing board may only expend monies for a "public purpose." See Wistuber v. Paradise Valley Unified School District, 141 Ariz. 346, 348, 687 P.2d 354, 356 (1984); School Dist. No. 69 of Maricopa County v. Altherr, 10 Ariz.App. 333, 338, 458 P.2d 537, 542 (1969); Ariz.Atty.Gen.Op. I79-121.

Sincerely,



BOB CORBIN
Attorney General

BC:TLM:CRJ:pnw

^{1/}Ariz. Const., art. IX, § 7.

HUNT, STANLEY, HOSSLER & ROURKE, LTD.

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EDUCATION OPINION

ISSUE NO LATER THAN

4-10-87

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REPLY TO:

February 10, 1987

Dr. Thomas McCraley
Yuma School District No. 1
450 W. 6th Street
Yuma, AZ 85364

R87- 040
Martin
2/12/87

Re: REQUESTED OPINION AS TO REIMBURSEMENT OF BUSINESS
EXPENSES PER CONTRACT WITH THE DISTRICT VERSUS
REIMBURSEMENT OF TRAVEL EXPENSES PURSUANT TO STATUTE

Dear Dr. McCraley:

Reference the above, you have asked that I render an opinion on
the following question:

WHETHER AN ADMINISTRATOR WHO HAS A CONTRACT
WITH THE DISTRICT THAT ALLOWS FOR FRINGE
BENEFITS, INCLUDING REIMBURSEMENT FOR BUSINESS
EXPENSES, MAY BE REIMBURSED FOR SAID BUSINESS
EXPENSES WHILE ON TRAVEL FOR THE DISTRICT AND
THUS RECEIVING REIMBURSEMENT FOR SAID RELATED
TRAVEL EXPENSES PURSUANT TO STATUTE AND
APPLICABLE RULES AND REGULATIONS

ANSWER: YES

BASIS FOR OPINION:

A.R.S. 15-502, Employment of School District Personnel;
Limitation, reads as follows:

A. The governing board may, at any time,
employ and fix the salaries of teachers,
principals, janitors, attendance officers,
school physicians, school dentists, nurses and
other employees necessary for the succeeding
year. The governing board may provide for
employee fringe benefits, including sick leave,
personnel leave, vacation and holiday pay,
jury duty pay, merit pay, pay bonuses and
other benefits. A contract for the next
ensuing school year includes only the employee
fringe benefits which the governing board
adopts for the next ensuing school year before

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it offers the contract. The contracts of all certificated employees shall be in writing and all employees shall be employed subject to the provisions of Section 38-481. (Emphasis added.)

Sometime in 1985, the board asked that I prepare a business expenditure clause to be included in your contract to reimburse your business expenses. The above referred to statute obviously allows the governing board to employ and fix the salaries of its employees for the succeeding year including their fringe benefits. (Also see Attorney General's opinions 80-138 and 77-172.) On June 10, 1985 the board adopted a Superintendent Fringe Benefit Policy which called for reimbursement of school district business expenses that the superintendent expended on the district's behalf. A copy of said policy is attached hereto as Exhibit A and by reference hereby incorporated. This policy calls for the district to reimburse the superintendent for reasonable business expenses which benefit the district or further the district's educational objectives and which are not otherwise reimburseable. These expenses must be board approved on a form which details the amount of the business expense, the time, date, place and business purpose. The form must be signed and the signature verified. It must thereafter be approved by the board.

The money to fund these benefits comes out of a maintenance and operation account numbered 001-00-12000-5799. This general account and the object code accounts within it, such as 5799 which refers to the superintendent's office, do not contain line items such as a specific amount for automobile and related expenses, membership dues, or reimbursement of school district business expenses. In other words, you don't know ahead of time exactly what repairs and upkeep or other expenses for gasoline and other items on a car that are going to be necessary nor do you know what the amount of reimbursed business expenses will be.

The question has now arisen that if you are on authorized travel for the school district out of the Yuma area, such as in Phoenix, and you had a business expense that was non related to the travel that you are on, are you authorized to be reimbursed this business expense under the fringe benefit policy of the district?

In regards to this situation, John White, Deputy County Attorney, has written an opinion, a copy received by my office on January 16, 1987, to Ray Drysdale, Yuma County School Superintendent, answering in the negative whether a fringe benefit designated as a business expense may be used to exceed the reimbursement limitation for travel set by the State of Arizona. I have no disagreement with that opinion as to that narrowly drawn question, as the question is implying that the fringe benefit

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provision is being misused for the purpose of exceeding the limitations set for travel. In other words, you cannot by subterfuge exceed the travel reimbursement provisions by designating the expense as a reimbursement of school district business expense; however, I see no problem if you are on travel and you are reimbursed for that travel why you cannot conduct other school district business unrelated to that travel that can be reimbursed under the school district fringe benefit provision. In other words, it does not make sense that if you are in Phoenix on travel for the district that you cannot conduct other school district business while there which could include such business expenses as lunches, dinners, breakfasts, the possibility of staying an extra day to complete said other school district business, etc.

It may be that prior to travel for a school district purpose it is determined that there are two school district purposes for the travel; however, it must be presumed that oftentimes when you travel for one business purpose the opportunity or necessity of conducting other business may arise.

The statute A.R.S. 15-342 is specific that in order to get reimbursement for an expenditure for travel and subsistence, travel must be for school purposes and the governing board must vote approval of such travel. Thereafter, pursuant to A.R.S. 38-621 a person traveling must receive travel orders and can only receive lodging and subsistence allowance reimbursements while on such travels and in such amounts as determined by the department of administration pursuant to A.R.S. 38-624. A.R.S. 15-342, subparagraph 5, states:

Any expenditure for travel and subsistence pursuant to this paragraph shall be as provided in Title 38, Chapter 4, Article 2.
(A.R.S. 389-621 et seq.) (Emphasis added.)

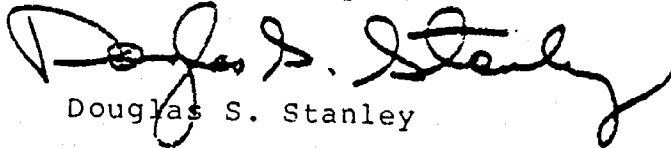
It is this writer's opinion that if you have a reimburseable business expense which falls within the fringe benefits authorized by the district policies which occurs while on travel for the district but is not incidental to the travel or an expenditure for the travel and/or subsistence pursuant to A.R.S. 15-342, then this is a proper reimburseable business expense as long as the board procedure for reimbursement of such business expense is followed, i.e. the approved reimbursement form must be filled out with details of the amount of the business expense, the time, date, place and business purpose of reimbursement. The original receipt should be attached then of course the form must be signed and the signature verified and the board must thereafter vote upon said reimburseable business expense. Assuming that the board would approve such expenditure while you

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were on authorized travel for the district on other district matters the payment should be out of an object code or account that is normally used for such reimburseable business expenses that occur within the Yuma area and not while on travel. I do not see this reimbursement being in violation of the statutes or rules and regulations concerning the limitations of reimbursement for lodging and subsistence expenses while on authorized travel for the school district.

A copy of this opinion is being sent to the Attorney General for his review pursuant to A.R.S. 15-253. If no action is taken by that office within 60 days, the opinion will be deemed confirmed.

Peace be with you,



Douglas S. Stanley

enc
fn

cc: Bob Corbin, Attorney General, State of Arizona
David Ellsworth, Yuma County Attorney

SUPERINTENDENT FRINGE BENEFIT

REIMBURSEMENT OF SCHOOL DISTRICT BUSINESS EXPENSES

The Board recognizes that the Superintendent is required, from time to time, to expend money that would be deemed business expenses to cover a variety of costs involved in situations where a business expense account would be more suitable, therefore, the Board is, through this fringe benefit, providing for reasonable business expenses, which may be incurred by the Superintendent, for purposes which benefit the district, or further its educational objectives which are not otherwise reimbursable.

Furthermore, the reimbursement of such Board-approved district business expenses will be made on an approved business form which would detail the amount of the business expense, the time, date, place, and business purpose for reimbursement. Said form should be signed by the Superintendent and his signature verified as to its contents. Whenever possible, advance approval should be obtained from the Board for reimbursement for the business activity or trip; however, this will not be required but is the better practice, especially in cases where the business activity is of a long duration and/or involves a significant expense. All claims for reimbursement for business expense will be subject to final Board approval and their approval in their discretion shall be final.